

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ENIGMA SOFTWARE GROUP USA, LLC,

Plaintiff,

v.

MALWAREBYTES INC.,

Defendant.

Case No. 1:16-cv-07885 (PAE)

DECLARATION OF NATHAN SCOTT
IN SUPPORT OF MALWAREBYTES
INC.’S REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF MOTION
TO DISMISS AND MOTION TO
TRANSFER

I, Nathan Scott, hereby declare as follows:

1. I am a Senior Security Researcher at Malwarebytes Inc. (“Malwarebytes”), where I have worked since 2015. I have personal knowledge of the facts stated in this declaration. If called to testify as a witness in this matter, I could and would testify competently to the facts herein.

2. The complaint in this case referred to the SpyHunter program distributed by Enigma Software Group USA, LLC (“Enigma”). On or about November 14, 2016, I downloaded a copy of SpyHunter from Enigma’s website and ran SpyHunter on a new computer with a Microsoft Windows operating system. I then looked at the detection functionality from the “Free Scanner” and “Buy Now” purchase process that the complaint describes in paragraphs 30 and 31 and had the following screenshots collected.

3. **Exhibit 1** is a true and correct copy of a screenshot of part of the SpyHunter screen that appeared as the program was supposedly scanning for “threats” on the computer. Below the large image of a red spider, the screen shows that SpyHunter describes cookies from the Travelocity website as “harmful malware objects,” “infections” and “Spyware.”

4. **Exhibit 2** is a true and correct copy of a screenshot of part of a SpyHunter screen that showed a “Warning” dialogue box, which appeared after the program listed supposed “threats” on the new computer. The dialogue box has a bold black exclamation point in a bright yellow triangle, accompanied by the text “To remove items, you must purchase the full version of SpyHunter.”

5. **Exhibit 3** is a true and correct copy of a screenshot of part of another SpyHunter screen that appeared after the program listed supposed “threats” on the new computer. The dialogue box says, among other things: “In order to use the removal feature of SpyHunter, you must purchase the full version.” The “Register Now!” button in the lower left corner of the dialogue box continues the purchase process and encourages the user to pay for a SpyHunter subscription that appeared to be priced at \$39.99 every six months.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 16th day of November 2016, in Santa Clara, California.



Nathan Scott

A handwritten signature in black ink, appearing to read "Nathan Scott". It is written in a cursive style with some loops and variations in letter height.